

UI PERFORMS: HOW THE UNEMPLOYMENT INSURANCE SYSTEM WILL IMPROVE ITS PERFORMANCE

I. INTRODUCTION

As it approaches the end of its sixth decade as the country's first line of defense against unemployment, the Unemployment Insurance (UI) system continues to change to meet the needs of the times. Most policy attention is focused on defining and meeting its role in an evolving national reemployment strategy. At the same time, but with less fanfare, the system continues quietly to address ways to improve its overall quality of service.

Most attempts to improve the quality of service will continue to involve the traditional UI mission of providing temporary wage replacement to involuntarily unemployed workers with substantial attachment to the labor force. The UI program has put great effort into providing quality service throughout its history. More recently, it has been responding to the government-wide emphasis on quality service by the Vice President's National Performance Review (NPR). The NPR's identification of the need to reexamine the Benefits Quality Control program--one component among several of the UI system's existing performance enhancement mechanisms--gave added impetus to an overall review.

Even before the NPR highlighted the need to "reinvent" government, many within the UI system perceived the need for new and revitalized approaches to ensuring service for the system's customers, animated by a renewed commitment to improving performance across the whole spectrum of UI activities. They shared a definite sense that the commitment to continuous improvement at various points in the system was either missing or had diminished. In certain States, some aspects of performance had lagged for considerable periods of time and corrective action had not proved effective. Federal attention and followup to performance issues varied across the country and by issue. The systems for measuring performance and ensuring program improvement actions needed further integration. In short, there was a need for a more systematic way of looking at all significant areas of performance as a whole, planning selectively and purposefully for change, tracking performance continuously and responding to evidence of both good and bad performance. The context would have to involve a commitment by both Federal and State partners to assume joint responsibility for performance and work together on all phases of performance improvement, from setting priorities and planning to execution and evaluation.

In the fall of 1993 the UI Service (UIS) began working intensively to develop a consistent and unified approach to promoting continuous improvement in the performance of the UI System's mission. The intent has been to ensure ever-increasing quality in the services received by the UI system's ultimate customers, primarily involuntarily unemployed workers and subject employers. In this effort it has collaborated actively with the Interstate Conference of Employment Security Agencies (ICESA), the chief representative of the States in the UI partnership. Together, the partners have identified principles to guide their

joint efforts to serve the ultimate UI customers and have specified their complementary roles in these efforts. Most time has gone into crafting the structure and details of the actual system through which performance can be regularly and continuously improved.

This narrative explains the proposed performance enhancement system resulting from the ICESA/DOL collaboration. Section II gives an overview of the entire approach by outlining its goals and the building blocks for achieving them. Section III describes the revised plan--called the State Quality Service Plan (SQSP)--and the planning process, which together form the centerpiece of the design. Section IV explains how the system will recognize and reward superior performance, and deal with deficient performance. Section V identifies the steps remaining before the new system can be implemented. As with other key products, this narrative is being presented for the information and reaction of all parts of the UI system and those who have an interest in its effective and efficient operation.

II. GOALS OF UI PERFORMS AND HOW THEY ARE TO BE ACHIEVED

A. Goals

The UI performance system was structured to accomplish three major goals:

1. Achieve continuous improvement in overall performance quality, i.e., the quality of the service to every State's customers;
2. Encourage effective management by all partners; and
3. Encourage innovative planning for more effective and more efficient services to customers.

B. Building Blocks of the Performance System

The new system has five key elements:

- ! ***Federal-State partnership principles***, which define how the partners intend to work together;
- ! ***Role definitions***, which indicate the limits of the partners' mutual and individual (but complementary) responsibilities;
- ! ***Key performance objectives and measures***, mutually-owned performance objectives and related measures, some of them with federally-set criteria or floors attached indicating minimum acceptable levels of customer service;
- ! ***A continuous improvement cycle***, with the four interrelated steps of "Plan", "Do", "Check" and "Act" which is designed to promote continuous improvement in performance over time by setting performance goals and measurable targets in selected areas, measuring performance against those targets, and taking the actions necessary to achieve them; and
- ! ***Front-end Activities and Strategies***, which are intended to build Federal and the State capacities for performance improvement.

1. The Partnership Principles.

These partnership principles (*Appendix A*) have been discussed widely within the system. Basically, they are a commitment for the partners to work as much as possible as true partners, with mutual responsibilities for ensuring the success of their common enterprise. It is a commitment to be mutually supportive and not adversarial in the discharge of what they recognize as complementary roles. The success of the UI system as a whole is to be measured by service to its ultimate customers, principally claimants and employers.

2. Federal and State Roles.

No exhaustive attempt has been made to define and catalogue State and Federal roles. Examples in four key areas have been drawn and shared in draft with the system (see *Appendix B*). These illustrate how the States are responsible for formulating their own UI laws in conformity with the requirements of Federal legislation and then conducting basic UI operations--paying benefits, collecting taxes, maintaining solvency within their own boundaries in "substantial compliance" with the laws. The Federal partner has responsibility for leadership and stewardship of the UI system as a whole, for provision of adequate administrative resources, and for "oversight" of State operations to ensure the requirements of Federal law are being fulfilled. The examples illustrate a high degree of collaboration, information sharing, and mutual reinforcement and assistance in all operations.

3. Key Objectives and Measures.

The UI Performs system builds upon two newly-defined categories of performance objectives, called Tier I and Tier II. The workgroup conducted an extensive review of UI activities and identified a set of commonly-owned objectives--objectives for which the Department of Labor and the States should be held accountable. Once the objectives were agreed upon, measures were selected. In most cases, measures were already in place or under development. The objectives and their attendant measures were then clustered. The first category, called "Tier I," represents key aspects of service that deserve to be addressed in *every* planning cycle. The SESAs, through the State Quality Service Plan (SQSP), will address them every year. The measures of these objectives--Tier I measures--are Federally-specified, uniform in meaning across States, and have Federal system-wide criteria distinguishing adequate from sub-par performance.

There is a second set of key objectives, or "Tier II," which do not have to be addressed each year. As explained below, whether States decide to address any of these objectives in a given year depends on their priorities for action. There is a menu of Federally-defined measures ("Tier II measures") for these objectives; but instead of Federal, national criteria, States set their own performance targets. Even though States will not address the objectives each year through the plan, they will report the measures regularly to the Department, and the data will be accessible to all through the UI Data Base. (If States address objectives other than Tier I or II, they may need to develop new measures to track them.)

a. Tier I Objectives and Measures: The new system has identified a few activities which all agreed represent key areas of UI customer service, significant enough that national standards on them be set in regulation so that they can be enforced if necessary. These standards imply measures on which uniform national criteria representing minimum acceptable levels of

performance will be established. The measures are gathered pursuant to uniform Federal definitions and mean (approximately) the same thing in every State. Without these two features, accurate comparisons between one State and another could not be made and uniform national criteria would be meaningless. The following ten performance objectives, represented by so-called "Tier I" measures, make up this group:

Timely First Payments.
Timely Nonmonetary Adjudications.
Prompt Appeals, Lower Authority.
Prompt Appeals, Higher Authority.
Timely Deposit to Clearing Account.
Timely Transfer to Trust Fund.
Timely Status Determinations.
Quality Adjudications.
Quality Appeals, Lower Authority.
Quality Status Determinations.

Appendix C contains a detailed explanation of and justification for the measures.

b. Tier II Objectives and Measures: States have many performance concerns other than the above ten. At any time, certain ones will be addressed through the annual performance plan. Thirty-five other activities of central importance to the UI system have already been identified and Federally-specified "Tier II" measures have been or will be developed for them. States will continuously gather and report these performance measures (as well as many others); the UIS will maintain the data for analysis in the UI Required Reports database. When States emphasize any of these 35 objectives, they must report on them using the data from the "Tier II" menu. If other objectives are being emphasized, States may use measures they have developed or will develop. Because there are no national criteria for desirable performance pertaining to the Tier II measures or those States define for this part of the plan, each State will set its own planning targets for them.

These are the Tier II measures:

Timeliness/Timelapse of:

First Payments (Partials/Part-totals)
Workshare First Payments
Continued Weeks Payment
Continued Weeks (Partials/Part-totals)
Workshare Cont'd Weeks Payment
Adjudication Implementation
Lower Authority Appeals Case Aging
Implementation of Lower Authority Appeals
A. Decisions Reversing/Modifying to Pay

B. Decisions Reversing/Modifying to Deny
Higher Authority Appeals Case Aging
Employer Tax Appeals*
Combined Wage Claims Wage Transfers
Combined Wage Claims Billings
Combined Wage Claims Reimbursements
Filing of Contribution Reports
Resolution of Delinquent Reports
Contribution Amounts Paid

Quality or Accuracy of:

Lower Authority Appeals, Due Process only
Higher Authority Appeals*
Employer Tax Appeals* (Including Chargebacks
and All other Tax Appeals)
Posting Contributions
Resolution of Delinquent Reports
Collection Actions
Field Audits
Employer Accounts Posting
Employer Billings
Employer Credits/Refunds
Benefit Charging
Experience Rating
Benefit Payments

Other Measures:

Turnover of Receivables
Writeoff of Receivables
Receivables as % of Taxes Due
Field Audit, Employer Penetration
Field Audit, Wage Penetration
Field Audit, Wage Change Due to Audit

** Being developed or to be developed*

See *Appendix D* for detailed definitions and a fuller justification.

4. The Continuous Improvement Cycle.

The continuous improvement (CI) cycle is based on one in use in a number of places and advocated by the Federal Quality Institute in its "Plan-Do-Check-Act" (P-D-C-A) cycle which is designed to promote continuous improvement in performance over time. It is a continuous feedback system; the results of past performance relative to Federal performance floors or State-set performance targets trigger specific future actions through the planning process. Although most of the onus for this process falls on the State, Federal responsibilities include setting national priorities; collaborating with each State in the formulation of its plan and planning targets; approving the plan; assisting with analysis of results; providing technical assistance (TA) to States needing and/or requesting it, based on their past or desired outcomes; and taking action to ensure substantial compliance in activities assessed using measures for which national performance criteria have been established.

- a. *PLAN*. In the Plan phase of the P-D-C-A cycle, the State, in collaboration with the Federal partner, assesses its concrete situation and sets priorities for

improving certain aspects of its operations while maintaining performance in others, and decides on specific actions designed to achieve these priorities. A primary consideration in the planning process should be balance: it is preferable to achieve balanced improvement across a broad spectrum of performance, rather than achieving especially high performance in only a few areas. A significant share of the performance enhancement effort went into designing a new, comprehensive State Quality Service Plan (SQSP) with a new constellation of key performance objectives and attendant performance measures. This new plan, and the process of developing and reviewing it, are discussed in detail in Section III below.

b. *DO: SESA Operations Under the SQSP.* The State Plan sets the framework for those areas of SESA operations which the SESA seeks to improve. These changes occur within the context of continuing UI operations of paying claims, collecting taxes, and attempting to facilitate claimants' reemployment. In the course of these operations, SESAs will gather transactions data as byproducts of operations. Where necessary (e.g., to measure quality and accuracy), sample-based measures will be used. DOL will work with the States to validate data being collected according to Federal definitions, and DOL will provide technical assistance on performance where appropriate. States will also be providing technical assistance to other States where requested.

c. *CHECK: Assessing Performance Under the SQSP.* Both State and Federal staff are expected to be continuously, actively assessing performance. The goal of this step is continuous monitoring of performance with the object of achieving continuous improvement where possible. States and Feds are expected to be familiar with both new and old information from the State's data systems, and historical information from other States to formulate a balanced view of State performance relative to its goals, its history, Federal criteria, and the performance of other States. The nature of the data in the plan dictate how many ways these can be used to judge a State's performance. For example, Tier I criterioned data, being based on nationally uniform definitions and subject to the same interpretation in all States, can be viewed in terms of how the State performed relative to Federal criteria, to the goals it sets in its plan, to its historical record, and to other States' performance. At the other end of the spectrum, a new State-developed measure implemented to track performance toward a new State goal may only be compared to the goal or target the State has set for itself in the current planning period.

The objective of these analytical efforts is to determine the State's underlying operational performance level. The State should not seek to take undue credit for random increases in apparent performance or those due to a favorable economic climate, nor be rated unfairly when such factors turn negative.

For all partners--States, National Office and Regional Office--this may require the development of new skills and capabilities. The ability of all to access available data regularly and easily, to put it into usable form (e.g., tables, charts, control charts) and to subject it to various statistical tests is an

essential requirement of this system. It will also demand back-up capability to design and carry out special studies to supplement performance indicators when specific processes need to be studied in depth to ascertain where breakdowns are occurring.

d. *ACT: Setting Priorities and Choosing Strategies.* In this phase of the cycle, the State--with DOL collaboration--decides what it will emphasize and then selects the strategies it will incorporate as action plans in the upcoming SQSP. Three main streams converge to influence these priorities: national emphases as reflected in DOL planning guidance; the State's own internally-generated emphases; and areas the previous "Check" phase has shown need improvement. The strategies can emerge from different processes, such as systematic problem solving; re-engineering UI processes; adopting and adapting best practices; and soliciting assistance from other partners. DOL at this stage has both "internal" and "external" responsibilities. The former involve collaboration with the States in setting priorities and in crafting strategies for improving service to customers. The external activities involve recognizing, acknowledging and rewarding superior performance, and taking steps to sanction persistent below-criterion performance to see that effective steps are taken to improve it. These activities by both States and Federal partners are expected to be quite extensive, and are covered in more detail below in Section IV.

5. Actions Taken Outside the Continuous Improvement Cycle

These "supply-side" initiatives, the equivalent of preventive medicine, will help engender continuous improvement independent of actions taken in response to signals from performance measurements. It is envisioned that States will participate actively in the capacity-building process, sharing with one another and the Federal government the skills and other capabilities they have developed over the years.

Both partners must consider actions outside the P-D-C-A cycle which undergird the cycle.

a. *Capacity Building.* The foundation of continuous improvement is a set of skills and technical capacities which Federal and State governments call upon as needed. Staff need analytical skills and the technical ability and computer capacity to effect it. The SESA must have systems which generate the kind of data which accurately reflect performance and upon which decisions can be made. The system needs technical knowledge of benefit payment processes and tax processes and the technologies which are being employed to make them efficient and effective. The National and Regional Offices need staff with both technical and program knowledge to ensure that sound Federal decisions are made and that technical assistance can be offered to various states--or who can at least recognize superior-performing States and facilitate their exporting information to other States.

Although UI processes are highly automated, improvements in automation and communications are both possible and desirable. The system needs to explore avenues for expanding the availability of the latest technologies.

b. *Communication and Personal Interactions.* The system also requires staff who can communicate clearly with one another and who have commitments to working cooperatively. The UI system is a human enterprise and not a machine; merely "tweaking the machinery" without attending to the personal dimensions of how decisions are made and effected can be, and often is, counterproductive in the long run.

c. *Recognizing and Rewarding Performance.* An important element undergirding improved performance is systematic recognition and acknowledgment of performance. The partners are developing ways of identifying and acknowledging high-level performers in the UI system so that they can be recognized and imitated, and also recognizing States or their program areas that have substantially improved their performance.

III. THE STATE QUALITY SERVICE PLAN AND PLANNING PROCESS

The heart of the new continuous improvement cycle in UI operations is a restructured plan of service. This section describes what goes into the plan and how the planning process is expected to work.

The State plan is intended to be a dynamic document States can utilize as a management tool--much like a business plan--not only to ensure minimum program performance, but also to guide key management decisions such as where to focus resources. As noted earlier, one overriding consideration in the plan is to achieve well-balanced performance across the range of UI activities. The State must own the overall plan, although it will be developed in cooperation with the Federal partner. The Federal role in this process is designed to be constructive and supportive. State and regional Federal staff are expected to work jointly to analyze performance data, to identify areas for improvement and/or emphasis, and to develop strategies for making improvement.

To be useful, the State plan cannot be too limited or allowed to stagnate. It needs to be a working document that can accommodate things like multi-year planning or significant change in circumstances during the planning cycle. The State plan as envisioned will provide that kind of flexibility.

A. The State Quality Service Plan.

This is a plan for State performance which is based on key performance objectives. The Tier I objectives, as noted above in the "Building Blocks" discussion, represent the system's consensus about UI legal requirements or key dimensions of customer service, and give a balanced picture of the whole spectrum of UI operations. They are a constant feature of every plan. The rest represent facets of the program on which the State is focussing particular attention at the time, either on its own initiative or at the behest of the Secretary of Labor.

Structurally, the State Plan will present how the State intends to focus on its key objectives through both a narrative description and a quantitative display. The following discussion may seem to treat the quantitative dimension--performance objectives and how they will be measured--excessively. However, understanding which performance objectives are considered key to good service to UI customers, and how they should be measured, are crucial to understanding the overall vision of the new system.

1. Plan Narrative.

The SESA will present an overview of its UI program in a brief but complete narrative. In it the State will give its assessment of the UI program's strengths and weaknesses, its performance relative to planned or targeted levels in the past (targets set both by Federal and State priorities), and its targets for the coming year. It will explain why certain areas are being emphasized in the planning year--new internal priorities, Secretary's emphases, the failure to achieve criterioned performance levels in the past, etc. It will also explain past corrective actions taken, their status and apparent effects, as well as those in prospect for the coming year and why they are undertaken. The narrative should also set the context for UI program activities by presenting the current and projected economic, political and budgetary climate within the State.

2. Quantitative Displays.

The plan will present basic performance data. Included, as noted earlier, will be data on all Tier I measures. Data on Tier II measures will be presented when relevant--when they refer to an objective highlighted in the current planning process, or reported on to show the effects of previous program improvement actions.

The plan will also present data pertaining to objectives which the above menu of "Tier II" measures does not capture properly or at all. For these objectives, new measures or measurement approaches would have to be developed. These could arise from year to year as a result of changing *State emphases* or (if funding permits) *Secretary of Labor's emphases*.

Plans will also present two other categories of quantitative data. One is *Trust Fund Integrity*. The workgroup agreed that the plan should address this regularly but left the measurement to States' discretion. It therefore charged the States with developing their own ways of characterizing fund integrity as part of the plan. The other is *Customer Service and Satisfaction*. This area must be addressed in the State plan, but the States will decide how to obtain (e.g., surveys, focus groups, etc.) and present this information. The Department will conduct a national survey of customer (claimant) satisfaction, but the results will not be representative of any individual State.

3. Distinguishing Desirable Performance from Performance Needing Improvement.

A key element of the plan is its formal enunciation of what is desirable or undesirable--or at least desired vs. less-than-desired--performance according to the measures it encompasses. These are reflected in an array of criteria, some Federal, most State:

a. Tier I measures may have two sets of criteria attached to them.

! There will be uniform, national criteria, set by joint Federal-State teams; each is to represent a legally-enforceable floor of performance which indicates minimally acceptable service to the State's ultimate customers. These criteria, contained in handbooks which implement a new regulation, will specify levels of performance which each State will be expected to meet. They will be set to embody the concept which now underlies the criteria implementing the current Secretary's Standards: State performance is expected to at least meet the criteria unless it can be shown that meeting them was not administratively feasible. A State failing to meet a criterion, which subsequent analysis shows was feasible to meet, will be expected to take corrective action.

! States have the option of establishing their own planning targets for these key measures, to indicate the levels of performance they plan or expect to achieve in these key areas during the planning period. It is expected that these will exceed the Federal criteria and reflect continuous improvement goals. However, if actual State performance is far below a criterioned level--e.g., as some States' appeal performance is now--a serious and realistic corrective action plan may show targeted performance reaching the criterion over a few years.

b. Other Measures--Tier II measures and others developed by the State to track performance in pursuit of temporarily highlighted objectives--will have only the target levels set by the State as part of its planning process. The State plans will only contain targets for measures of performance objectives contained in the current plan or reported on from previous planning cycles.

Establishing its criteria or planning targets will be a major focus of State activity during its planning process. Major factors it will consider include its priorities set from various internal State forces and customer input; its previous experience; and what it believes is attainable during the "do" stage of acting upon its plan. It will also be influenced by the experience of other States in areas where performance measures allow valid interstate comparisons. Target levels can be expected to be a major subject of consultation with the Regions during the planning phase.

B. The Planning Process

The new planning proposal emphasizes joint responsibility between the States and ETA for setting priorities and responding to performance information both annually and on a longer-term basis. It involves negotiations between the States and ETA Regional Office staff to determine appropriate responses to performance data as well as continuing tracking and analysis of data to determine improvement levels. The new process sees Federal and State partners as having a joint responsibility for setting priorities and initiating planning directions--indeed, States are to influence Federal directions as well as setting their own. The planning process, although conducted on an annual cycle, is to reflect State as much as Federal needs, and may thus have many multi-year aspects depending on the cycle of development or improvement in question. The process should involve more analysis

throughout the year by both State and Regional staff, and a different process of developing the State plan because more interaction and consultation with the Regional office is implied, and possibly interactions with the state's UI stakeholders.

1. Timing.

In the present Program and Budget Plan (PBP) process, the PBP Handbook is transmitted to States and Regions in early June. SESAs generally prepare their PBPs in the early summer then transmit them to the Regions in accordance with a schedule set by the Regions. The RO must review and approve them by September 23 and notify the NO by the end of September. The assurances in the approved plans are an important ingredient in the Department's certification of the State's eligibility for the FUTA offset credit on October 31.

It is not clear whether the timing for the new process for the State Quality Service Plan (SQSP) needs to differ from the present PBP cycle. As with the PBP, the performance part will contain areas of the Secretary's emphasis for the upcoming FY and the planning calendar, and the budget portion (as at present) will contain planning targets based on projected workloads. If as envisioned the Regions and SESAs collaborate closely on data analysis, and to develop and implement corrective action plans throughout the year, the time required actually to develop the draft SQSP and secure consensus on it could be about the same as now. SESAs may need extra time to obtain and reflect the input of stakeholders depending on how and when they involve their customers in the process. For example, they may desire some additional time in the schedule between when they attain consensus with the Region and the plan's submission, for gathering stakeholder input.

a. Data Availability and the Planning Cycle. The availability of data should not pose any obstacle to changing the timing of the cycle. The planning year could be virtually any 12-month period ending in a standard quarter. Data on the accuracy of paid claims are based on weekly samples which can be aggregated or "rolled up" for any desired time period. The new tax measures involving systems reviews and any methods surveys (developed through the Revenue Quality Control initiative) can be scheduled to be ready for the cycle. The tax performance indicators or "computed measures" are based on quarterly data. The new benefits and appeals measures developed through the Performance Measurement Review process, including quality data, are collected quarterly so that recent findings will be available for the planning cycle.

b. Multi-Year Objectives and the Plan. Many of the objectives developed and reported on through the annual plan will actually be multi-year. For example, a State might need to bring performance on a Tier I objective up to the criterion level, but determines that reaching it will take three years. For the next three years, therefore, its annual plan will present performance for the measure in question in terms of both the criterion level and interim targets along the improvement path to reach the criterion level. The plan will present information on its progress toward this goal as well as toward other multi-year objectives and other targets of one-year or shorter duration. Plans will also address the achievement of short-term objectives whose timing spans two planning periods.

2. Setting State Priorities.

States will have to have their priorities set by the time the Federal planning guidance is received in May or June so that that phase of the formal drafting of the plan can begin. This may require some prior development of new measures or indicators so that progress in these high-emphasis areas can be measured and tracked during the execution phase. Also during the drafting period, the States in collaboration with the Regions, and possibly the N.O., will have to decide which operational areas require formal corrective actions. Missed criteria on Tier I measures will almost always require corrective actions; missed targets will be optional. Making these decisions will require considerable analysis in some instances, and also some bargaining and possibly consultation with other States. The analysis of a State's ability to meet certain performance levels in the past will inform decisions about future planning targets.

3. DOL Planning Guidance.

DOL will have to continue to issue planning guidance which is quite similar to what is now issued for the PBP process. For the performance planning portion, the guidance will have to include the planning calendar, a synopsis of DOL plans, and an explanation of the Secretary's emphases for the planning year. In accordance with approach outlined in the Government Performance and Results Act, the State and Federal partners will collaborate on establishing priorities, goals, and major objectives for the system as a whole. These priorities and goals will be featured in the DOL planning guidance.

It needs to be determined how decisions will be made on whether or not to include corrective action plans in the State plan--what degree of interaction between NO and RO and State. (In the PBP, the NO identifies to the Regions the performance areas which must be accounted for in the planning year. This is done via the Regional Review Guide which parallels the PBP Handbook. The Region is ultimately responsible for determining, in conjunction with the State, which areas actually require a CAP.)

4. Setting Priorities: the Federal Plan

Parallelling the State plan, although on a more modest scale, will be a Federal performance plan circulated as part of the planning guidance (prior section). The purpose of this plan is to set the stage for Federal performance priorities during the planning cycle. It will set forth the Federal priorities, explain how and why they were chosen, and outline the Federal strategy for achieving them. The Federal priorities and goals will be the Federal role implications of the system-wide goals set by the joint process noted in the prior section. The strategy will embrace the Federal initiatives to help the State improve performance, why these are part of the strategy, and outline the major division of the resulting tasks between National and Regional Offices to accomplish them.

5. Stakeholder Consultations.

SESAs are encouraged to seek input from their stakeholders at any time and in any manner they find appropriate. The process and timing for this need to be worked out in detail within each State. If the State wishes to gather input for its plan from stakeholders, time in the planning cycle must be allocated for it, so that enough time is available for making necessary

changes to the plan and obtaining the concurrence of the Region before submitting the plan in final.

IV. THE ACT PHASE: RECOGNIZING EXCEPTIONAL AND DEFICIENT PERFORMANCE AND ACTING ACCORDINGLY

The indispensable and critical bottom line of all performance indicators and analysis is the making of informed decisions about what is working well and what is not, and about what ought to be done next. The implications for State and Federal staff, in keeping with their complementary roles, are different.

A. State Implications

As the operating party, the State has the more complex decisions to make. Its data monitoring, and various supplementary studies--perhaps conducted in conjunction with Federal and other State staff--will show areas of strength and weakness. This information must be put into some kind of priority order. Certain problems must be addressed quickly and possibly forcefully; others are less urgent but may offer opportunities to improve performance at relatively little cost or effort, e.g., by generating process improvements or re-engineering processes. There may be areas where performance could be improved substantially, but only at substantial cost, e.g., by installing a new tax accounting or benefits management system used in another State, identified as a result of a benchmarking study. All these decisions must be made in the context of budget availabilities and State priorities other than UI operational performance.

Making these decisions implies a mechanism for translating performance data findings into decisions. The mechanism requires an intimate linkage among the data analysts, program specialists, and line managers. This means taking raw performance data and drawing the performance implications from them and putting this into a form which is not only accessible to State managers, but also persuasive. Financial and political cost implications are critical: what are the costs of not taking action, the implications of doing nothing? What are the costs of taking action, and what is the likelihood that a given action will have its desired effect?

At this stage, the SESA must also make concrete plans to implement improvement actions called for by the State's internal priorities, or changes to be made in response to new Federal (Secretary's) priorities enunciated in the next planning cycle. These decisions are input to the Plan, thus closing the loop in the continuous improvement cycle.

B. Federal Implications

At this step, Federal staff have four major kinds of responsibilities which together constitute oversight: (1) technical assistance; (2) financial assistance; (3) rewarding accomplishment; (4) enforcement actions. (These are in addition to oversight activities taken at the other stages: negotiating and approving plan commitments; data analysis; participation in special studies, data collection and data validation, etc.)

1. Technical Assistance.

Federal analysis, in conjunction with State analysis, should determine where and what kind of TA is needed. Federal staff can either provide it directly or arrange for it through contractors or arranging assistance through States having both the competence and available resources to provide it. As an example of the latter, the Federal partner might identify as a "mentor" a State which is strong in an area where another has shown persistent weak performance. Such mentoring assistance could be an important part of the weaker State's annual performance plan and lead to improvements in performance. Mentoring could also be considered as an option to be formally imposed on States with persistent performance deficiencies, to obviate the need for sanctioning at a later date. (See 4, below.)

2. Financial Assistance.

At various times the Federal partner has provided additional funds, usually through some kind of competitive process, to assist States in implementing particular projects. The Benefits Quality Control Program Improvement grants and Automation grants programs are recent examples. Funding was very small relative to total grants. Whether such programs are even feasible in the environment characterized by both overall budget stringency and the new AFI process remains to be seen. Various options for providing funds for capital investments to promote performance improvements will be explored.

3. Rewarding accomplishments.

An important oversight function is identifying superior performance, recognizing it publicly to the system, and exporting its experience to those SESAs or Regions which can benefit from it. This is an important implication of and use to be made of data which measure performance uniformly across all States. Recognizing superior performance could be considered a part of the general process of benchmarking, identifying superior performers and using their performance levels as targets for the rest of the system. The workgroup has highlighted the need for new approaches to recognizing and awarding accomplishment and has initiated the process of developing some workable alternatives.

4. Enforcement Actions to Improve Performance.

The overall structure of the new system--its combination of front-end activities to enable continuous improvement and the continuous improvement cycle--is designed to minimize the incidence of chronic underperformance. Nevertheless, it is probable that some continuing sub-criterion performance will occur which the system as a whole, under the leadership of the Department of Labor, must be prepared to address.

a. *Routine Cases.* When a SESA's measured Tier I performance fails to meet a Tier I criterion, a corrective action plan (CAP) will be automatically required. There can be exceptions to this rule; the Department may conclude that the failure was an aberration; if, for example, a SESA's performance had consistently exceeded the criterion but fell below it and, by the next planning cycle monthly or quarterly performance was already showing a rebound, a CAP might not be required. It might also be concluded that sampling error accounted for the dip below the criterion level. It is also assumed, further, that when performance is truly deficient, most CAPs will be effective and within the planned period will restore performance.

b. *Exceptional Cases.* There will be instances of continued failure to perform up to a criterion level, either because the CAPs are not effective, or a SESA resists taking further action (or resists taking any action at all). DOL will then have the responsibility for using the threat of conformity/compliance (C/C) actions to do what is deemed necessary to improve performance. This attempt to bring about improvement through C/C action is seen as a last resort which, as the history of Federal-State relationships has shown, both parties will generally go to substantial length to avoid.

It can be expected that three procedural steps or stages will usually be involved, which can be termed informal, gauntlet, and finally, the actual initiation of C/C proceedings.

! *Informal.* At the earliest stage, the Department will do several different things simultaneously. It will first have concluded that the deficiency is real and systemic and not transitory--that performance is not likely to reach the criterion level without some action on the SESA's part. If the SESA had undertaken a CAP and/or was in the middle of one, the Department would have also concluded that whatever level of improvement actions were taken were also not likely to be effective. It will be in the process of analyzing further, if necessary, the cause of the performance problem. Is it caused by lack of expertise, resources, or the will to tackle a political or organizational problem? If the cause is mainly lack of expertise or resources, it will be attempting to obtain them and to work with the SESA to bring them to bear on the problem.

! *Formal.* Once DOL has concluded that the informal steps are not working the Department would issue a gauntlet letter. This would give the State one last opportunity to resolve the issue before C/C proceedings. It would likely require the SESA to establish formal plans and time frames for bringing performance up to the level of the criterion, as well as set concrete operational steps or observable milestones that the Department can track to determine whether the SESA is proceeding with its plan. The plan must be judged workable by the Department in light of its analysis of the SESA's performance problem. If the SESA does not develop such a plan, the gauntlet declares the Department's intention to initiate C/C proceedings. Following the letter, the Department would initiate discussions with the State's governor to ensure the implications of legal actions were well understood (this step may have been taken informally).

! *Legal Action.* If the process breaks down--the SESA refuses to draft a plan, or to draft one that the Department staff find acceptable--the Department may initiate C/C proceedings. The SESA may request a hearing. The result would be a formal determination on whether the State is in conformity/substantial compliance and, as a consequence, whether the FUTA tax credit and/or administrative funding should be withheld. The Department recognizes the advisability of also being able to apply

lesser sanctions and is actively exploring the legal and practical considerations. The sanctions under consideration include (a) an incremental withdrawal of the FUTA tax credit; (b) levying of fines or penalties payable from non-UI dollars and (c) future reductions in a State's UI grant.

V. STEPS NEEDED TO IMPLEMENT THE NEW PERFORMANCE IMPROVEMENT SYSTEM

Four basic steps are needed to complete and implement the new system. These are (a) draft and implement a new regulation covering the system, including new sanctions and prepare to seek law changes as necessary; (b) complete the development of new measures or measurement systems; (c) develop the national criteria for Tier I measures; and (d) integrate the new performance plan with the existing budget planning system.

A. The New Regulation

UI currently has three regulations relating to performance and performance measurement: First Payment timeliness, 20CFR640; Appeals timeliness, 20CFR650; and Benefits Quality Control (BQC), 20CFR602. The first two establish Secretary's Standards for performance and set forth the measurements and criteria that are used (before judging administrative feasibility) to determine whether the Standards have been achieved. The BQC regulation establishes no performance standard, but identifies the parameters of a system for measuring benefit payment accuracy which States are required to have.

1. Proposed Regulatory Strategy.

This Section Under Development, pending work of subcommittee on regulation. The workgroup has decided, however, that the path toward a new regulation should begin with an advance notice and then a proposed rule to ensure maximum consultation with the widest possible audience. The regulation itself would be as short and general as possible. As much as possible, details--e.g., measures, criteria for Tier I measures, etc.--will be contained in implementing handbooks which are more easily revised. The regulations will contain a commitment to review the workings of the entire UI Performs system, at least every 5 years.

B. Complete the Development of Measurement Systems

Although the new system can begin to operate without a full complement of measures, it envisions the complete set of measures outlined earlier in this paper for a balanced view of State UI operations. This is the status of the major components:

1. New Benefit and Appeals Measures.

The Performance Measurement Review (PMR) has been redesigning and field testing benefits and appeals timeliness and quality measures. Most are included as Tier I or Tier II measures. These are currently scheduled for implementation during July 1995-June 1996.

2. New Tax Measures.

Revenue Quality Control (RQC) has developed a set of measures of tax program timeliness, accuracy, quality and completeness which are the basis for the tax measures included above. The tax indicators based on revised ETA report 581 will be available in 1995; the rest of the measures will be in use starting in early calendar 1996.

3. New Benefit Payment Accuracy Measures.

Under the impetus of the Vice President's National Performance Review, the PE committee will review and recommend changes to the way the UI system now measures benefit payment accuracy through the Benefits Quality Control (BQC) program and translates its findings into program improvements. This review will conclude in 1995. If the changes to be made are minor--largely scaling down the frequencies or scale of measurement--it may be possible to implement the new system by early 1996. If substantial redirection or new measurements are recommended--e.g., using the sample-and-field verification methodology to assess the accuracy of decisions to deny benefits--more development and implementation time must be expected.

4. Customer Service/Customer Satisfaction.

The development of such measures is one of the highest priorities throughout the entire Labor Department. The PE committee has been very concerned that measures properly reflect the realities of the UI partnership and be properly reflected in the new planning process. In the course of its efforts it produced guidance for the development of appropriate measures for the UI system. As noted earlier in the paper, the Department will produce a national measure of claimant service/satisfaction through a national survey. States will be responsible for developing their own ways of measuring customer satisfaction, which may include using some of the national questions in State surveys. The Department began work on a customer satisfaction measure during CY 1995.

5. Other Measures.

In addition to the new measures which have been developed through the PMR and RQC initiatives, the new system envisions other measures which are not part of current measurement development efforts:

! **Higher Authority Appeals Quality.** The feasibility of developing such a measure, and then its specifics, must be determined.

! **The Timeliness of Employer Tax Appeals.** This is a state programming requirement.

! **The Quality of Employer Tax Appeals.** Specifications need to be developed in collaboration with stakeholders.

! **A Single Measure of Timeliness of Deposit to the Trust Fund.** This measure is intended to combine the present measures of timeliness: cashiering (the rate at which agencies deposit funds into the Clearing Account) and transfer from the CA to the Trust Fund.

! **Benefit Payment Control Performance Measures.** BPC measures are under review as building blocks in the performance measurement system.

C. Develop Tier I Criteria and Their Relationship to Action or Sanctions

The PE committee's general directions regarding the nature of the criteria need to be made operational and actual levels set. Levels will reflect actual State experience so for many cases, this could be started immediately since the actual experience is available for analysis. However, there are new measures or reconfigured measures (e.g., Status Determination timeliness) for which experience must be accumulated before analysis can start. The measure for timeliness of deposit to the Clearing Account has been reconfigured; it is scheduled to be field tested in mid-1995. The Quality of Status Determinations is measured by the two-part RQC methodology which combines both systems review and acceptance sampling. How this might lend itself to a sanctions process has yet to be explored.

D. Meld Performance and Budget Planning

The details of combining the new performance planning and budgeting systems (i.e., part of the existing Program Budget Planning or PBP system) need to be worked out.

E. "UI Performs" Conference

Under consideration as part of the implementation strategy is a series of annual conferences on the performance system and its results. These would be held in conjunction with other conferences whenever possible. Their function would be to educate in the process, help States on the initial development of their planning processes, and identify/resolve issues remaining with the design of the system or its implementation, and focus on results and how to achieve them.

V. DRAFT IMPLEMENTATION PLAN

It appears that 1998 is the approximate start date for a reasonably complete performance enhancement system, based on the following:

! Comment Received on PE system narrative
August 1995

! Develop and clear regulation December 1997

! First full year report on tax measures (RQC) May 1997

! Full implementation, new benefit (PMR) measures June 1996

- ! Benefit Payment Accuracy changes effective January 1997
- ! First full-year report on new benefit measures July 1997
- ! Implementation of new measures 1998
- ! Criteria set on most measures 1998

VI. WILL IT WORK, AND HOW WILL WE KNOW?

The preceding narrative describes an ambitious effort to restructure many of the ways the Unemployment Insurance system now "does business." It involves different ways of two major levels of government working together to provide better service to the system's ultimate customers, and more coherent and systematic ways to measure whether services are in fact improving. The logic of this approach dictates that the system as a whole be prepared to step back a bit and assess whether this whole performance improvement effort itself has had its desired effects. At some time in the future, the UI system must ask itself dispassionately whether this new approach has resulted in any progress. Addressing this question will require the selection of realistic and objective indicators of progress toward the goals advanced at the beginning of this paper, and perhaps the development of some "customer satisfaction" measures to reflect the partners' sense of what it is like to work within the Partnership Principles. Indicators of quality of service to the ultimate customers will need to be reviewed to see whether the desired trajectory of continuous improvement is being achieved; for example, are more States performing above Tier I criteria as time passes. Taken as a whole, this promises to be a complex and sophisticated assessment, but it represents the kind of stock-taking incumbent on all organizations.

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PARTNERSHIP PRINCIPLES

The Federal government and States share responsibility for the UI system and have a common goal: to provide better services to the American public by enhancing and improving the system as a whole. We believe the three following principles should form the basis for carrying out this mission:

- 1. Basing the Federal-State relationship on mutual trust and respect will improve the UI system and its service to the American public.**
- 2. Working as equal partners with complementary roles will improve the UI system's quality of service and its integrity.**
- 3. By setting high standards and goals and working together as a team, the system will be strengthened and the entire nation will benefit.**

The following are examples of the actions and attitudes which are consistent with this principle:

1. Fostering a win-win relationship; advocating for and supporting one another;
2. Sharing credit, celebrating successes;
3. Being willing to acknowledge the existence of problems, and focus on fixing them instead of placing blame;
4. Mutually accepting responsibility for resolving problems and overcoming deficiencies;
5. Where there are differences between partners--
 - o Trying to resolve disputes equitably and fairly, being willing to compromise to achieve consensus;
 - o Seeking early, informal resolution;
6. Fostering open, personal communication;
7. Clearly defining partner roles, rights and responsibilities;
8. Engaging in joint planning and influencing one another's priorities;

9. Promoting innovation and creativity;
10. Jointly seeking input from customers;
11. Sharing information and resources;
12. Recognizing the role and importance of other players at the State and National levels;
13. Asserting positive and friendly influence on partners to improve performance; and
14. Periodically reviewing the principles and roles.

Appendix B

Federal-State Roles in: Conformity and Compliance

I. The Basic System

There are 53 State UI programs operating according to State laws. (The District of Columbia, Puerto Rico and Virgin Islands operate their own "State" UI programs.) These State programs are linked into a basic Federal-State system in a variety of ways, most fundamentally because each State UI law conforms to Federal legislation. There are strong incentives to fulfill the conditions for being a part of the system: the State's employers receive a substantial tax credit, and the States also receive administrative grants. The Secretary of Labor certifies a State's eligibility for both the tax credit and administrative grants if the State "conforms" to and "complies" with Federal law.

Tax Credits. As of 1995, Federal law imposes a tax of 6.2 percent on employers in a State. This amount may be reduced to 0.8 percent if the Secretary of Labor certifies the State for credit against the Federal tax. To receive these certifications, States must meet FUTA requirements. If a certification is to be withheld, the State must be given notice and opportunity for a hearing.

Administrative Grants. States are also eligible for grants to administer their UI laws. To receive these grants, States must be certified that they meet Federal law requirements found in the SSA. As with the tax credit certification process, if certification is to be withheld, the State must be given notice and opportunity for a hearing.

Conformity and Compliance. "Conformity" and "compliance" issues arise when the Employment and Training Administration (ETA) believes that a State is not meeting FUTA or SSA requirements. Although ETA raises these issues, the Secretary of Labor is the final deciding administrative authority. (States may appeal to the courts.)

Conformity issues relate to whether State law is on its face consistent with the provisions and requirements of Federal UI law, and whether a State administratively and/or judicially interprets its law consistent with Federal requirements.

Compliance issues arise when actual State practices conflict with the requirements of Federal law. Noncompliance must be substantial before there is a withholding of certification(s).

The distinction between conformity and compliance is often not clear. Since it is assumed that States follow their own laws, most if not all compliance issues may imply conformity issues. For example, failure to dispose of appeals timely indicates a performance problem and thus a compliance issue. However, the Department of Labor

could also likely raise a conformity issue if there were a question whether State law requires the timely disposition of appeals.

II. Federal programs include Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemen (UCX), Trade Readjustment Allowances (TRA), Disaster Unemployment Allowances (DUA), and special Federal extensions such as Emergency Unemployment Compensation (EUC). Unlike the basic program, these programs are administered by the States as the Secretary of Labor's agent through an agreement with the Department. Therefore, the Department has a somewhat different authority for assuring proper administration. Issues arising under these programs generally relate only to the agreement, although a State's failure to administer TRA properly may also result in the loss of tax credits. Although conformity and compliance do not generally apply to these programs, the same general concepts of meeting both legal and performance requirements do apply and generally with regard to performance the Department relates to the States in the same way regarding both Federal programs and the basic UI program. Therefore, for purposes of the following discussion, it is assumed that Federal programs are included.

III. A Discussion of Processes and Roles

1. In general. Federal laws passed by the Congress make assessing conformity and compliance a solely Federal function and give the Department responsibility for interpreting the laws. In practice, however, the process through which laws are interpreted and issues are resolved is usually complex and interactive. The State may challenge DOL's decisions in Federal court. Claimants represented by legal advocacy groups may initiate action directly against a State in Federal court, whose decision may affect DOL's interpretation.

A narrow reading of the basic Federal law may give the impression the Department of Labor exists solely as an enforcement agency. DOL does have enforcement authority, but only to help it discharge its ultimate responsibility of helping ensure the purpose of Federal UI law--the prompt and accurate payment of UI benefits to involuntarily unemployed workers--is achieved. The Department's ultimate customers are the same as the States'--claimants and employers. Using the law's ultimate enforcement mechanism--the withdrawal of tax credits and grants, or termination of a Federal program agreement in a State--create situations in which it is difficult to maintain the law's basic purpose. For this reason, the Department has always tried (usually successfully) to avoid using it by acting first to prevent both conformity and compliance issues from arising, and then giving States adequate time to resolve any issues that have arisen.

2. Conformity.

a. Federal Role and Responsibilities:

1. Interpret Federal law and its requirements, taking into account, where appropriate, current judicial interpretations and State input.
2. Inform States of basic legal requirements as well as all relevant current interpretations and issues arising in the States on a timely

basis, e.g., by conducting seminars on conformity and compliance.

3. Work informally with States, especially SESAs, in the development and formulation of their legal provisions to head off potential conformity issues.
4. Review State laws, regulations, court decisions, etc., for conformity.
5. Initiate conformity action as required; respond quickly to State replies; advise States of results when decisions are made.

b. State Agency Role and Responsibilities:

1. Understand Federal law, its requirements, and current judicial interpretations and assist Federal partner where appropriate by consulting on interpretations and in general become actively involved in the conformity process.
2. Work with legislatures to ensure conformity.
3. Promptly provide DOL with information on pending UI legislation, rules, etc., and copies of enacted laws; respond quickly to Federal inquiries and responses.

3. Compliance. Not only must the language of the State law conform to the requirements of Federal law, but in action the State must also "substantially comply" with the requirements of Federal and State law. This feature of the law places a special responsibility for oversight on DOL. DOL must have ways of determining whether States are complying substantially, and if they are not, whether they have taken remedial actions to resolve a compliance issue.

This process involves at least the following steps: (1) determining what Federal and State law requires in terms of operations; (2) developing ways of measuring the performance; (3) for each measurement, establishing some kind of criterion of substantial compliance; (4) establishing procedures (which may be in regulation) covering steps to be taken by States and the Department when performance does not meet the applicable criterion; and (5) ultimately combining all relevant performance information to determine whether substantial compliance is occurring or not.

Although Federal law is generally clear as to what it requires, it does not always plainly mandate which State functions to measure, how to measure the function, or what the standard or numeric criterion for the measure should be. The Secretary of Labor has broad authority in this area, which he or she exercises in consultation with the States. For example, the law is clear UI must be paid "when due." Although the Supreme Court in Java established a standard on "when due" when it stated UI must be paid "as soon as administratively feasible," neither the law nor the court provided detailed statements of what time frame is administratively feasible for all claims or what measurement should be used. The Department, in consultation with the States, developed the measures and criteria which are currently in place.

a. Federal Role and Responsibilities:

1. In consultation with the States, determine what Federal & State law requires and what kind of performance is implied for the system.
2. Establish priorities, based on administrative resources and other factors, among Federal requirements which will influence how they will be measured and whether measures will have formal criteria indicating appropriate performance.
3. On a timely basis, inform States/offer interpretations as required.
4. Devise measures/measurement systems, or other means of determining whether the requirements of Federal law are being met, in consultation w/ States and in light of State experience.
5. Promulgate measures/measurement systems both to assess adequate performance and monitor performance improvement.
6. In consultation w/ States, establish criteria or standards if appropriate to assessing most important Federal requirements.
7. Assist States with TA, information, recognition of accomplishments, and funding of regular actions, and generally increase State involvement to maintain or improve performance and so to prevent compliance from becoming an issue.
8. Formulate internal rules for deciding whether action is needed, and if so, what actions, and in what order--by both Federal and State--whenever performance is inadequate.
9. Formulate strategies and tools to ensure parties work together in accomplishing needed tasks:
 - o Strategies for State UI programs;
 - o Strategies for Federal programs.
10. Make compliance decision and initiate legal enforcement action as last resort when a State fails to comply substantially.
11. Seek/provide additional adequate funding as required.
12. Respond quickly to any State replies regarding compliance matters.

b. State Role and Responsibilities

1. Understand Federal law requirements; assist Federal staff in drawing appropriate performance implications for State UI environments.
2. Work with Feds to develop appropriate measures, criteria, and assessment systems as required.
3. Devise related ancillary measures for own use.
4. Implement necessary measurement systems.
5. Accurately report findings as required.
6. Monitor own performance continuously; take process improvement actions as needed when performance is inadequate.
7. Obtain TA from Feds or other States if needed to ensure actions taken will be most effective; provide TA to other States when needed.
8. Take regular steps to maintain/improve performance, not only when criteria are not met.
9. Reply quickly to DOL inquiries and initiatives.

Federal-State Roles in: Conflict Resolution

I. Background

Issue: Frequently parties with different responsibilities or different points of view disagree on an issue of policy or practice. We should employ the principles of trying to resolve differences equitably and fairly, always mindful of our status as mutual partners, starting as early as possible after an issue surfaces, and relying as heavily as possible on informal means.

Process:

Both parties should attempt to follow these steps in addressing any issue:

1. Determine what kind of a "problem" it is. Is it an issue of fact or technical problem which better information can solve? Is it a policy problem? A legal problem? Organizational problem? A resources problem? Is there an established mechanism available (e.g., in law or regulation) for resolving the problem if informal means are insufficient?
2. What are the facts and the history? How did it originate?
3. Seek to understand the perspective of the other party.
4. Begin resolution at the lowest appropriate level.
5. Rely on informal and person-to-person means.
6. Assume the other party is acting in good faith.
7. Try to resolve issues jointly, e.g., RO-NO, Fed-State, State-State workgroups.
8. Try to reach agreement before resolving through authority.
9. If law or regulations provide legal procedures, make them the means of last resort; try alternative dispute resolution vehicles to resolve serious impasses before legal procedures.
10. Use other such processes as may be appropriate.
11. Don't assume there will or should be a legal remedy for every conflict or problem.

II. An Outline of Roles and Responsibilities

a. Federal Role and Responsibilities:

1. Assure RO and NO policy interpretations are consistent with one another.
2. Make sure policy directions and interpretations to States are clear and timely.
3. Start at the lowest appropriate staff or organizational level to address problems and conflicts.
4. Be willing to reexamine policies.
5. Respond quickly to requests for information, interpretation, or review of proposals.
6. Examine all relevant data and request additional information where necessary.
7. Establish appropriate authority and accountability at both Regional and National levels.

b. State Agency Role and Responsibilities:

1. Seek clarifications to legal and policy interpretations where necessary.
2. Report required information timely and accurately.
3. Work at the lowest appropriate staff or organizational level to address problems and conflicts.
4. Make sure Federal partner understands the roles of other State entities or organizations in all conflicts.

Federal-State Roles in: Technical Assistance

I. Background

Technical sophistication and competency vary considerably between Federal and State partners, among the national office and various regional offices, and between the States themselves, depending on the area involved. Performance can often be improved considerably by the sharing of these competencies. The Federal partner, because of its responsibilities for the health and improvement of the UI system as a whole, should have a leadership role in providing or organizing the provision of technical assistance (TA). This does not imply it has a monopoly on the technical competency involved. The provision of TA is regarded as a major means of resolving conflict, for routinely improving performance, and as a first response to improving performance when benchmarks are missed. Technical assistance should be provided to States/Regions continuously, as a means of improving performance and minimizing future performance problems and conflicts. The party requesting TA should have made a serious effort to determine it cannot solve the problem itself; this will enable the providing party to know TA is truly needed and it should respond promptly.

II. An Outline of Roles and Responsibilities

a. Federal Role and Responsibilities:

1. Exercise lead responsibility in the sharing of information among all the States.
2. Provide clearinghouse facilities for technical information.
3. Compile and share an inventory of technical competencies within the system.
4. Ensure NO and RO front-line staff have appropriate technical competencies.
5. Organize teams of DOL and State staff to address technical problems in States where needed, or teams of staff from other States alone, as appropriate.
6. Organize its budget resources, e.g., travel resources, to enable the provision of TA by DOL and/or State personnel.
7. Seek TA from SESA specialists when Federal expertise is lacking or States have superior knowledge.
8. Ensure the UI system participates in all ETA capacity-building efforts--that UI obtains its fair share of resources and the State partners are fully involved in the effort.

b. State Agency Role and Responsibilities:

1. Seek TA where needed from State peers, Regional Office, and National Office and be willing to offer to other States and to the Federal partner.

2. Examine available informational materials compiled and disseminated by DOL; they often summarize or provide a guide to expertise, experience and techniques available throughout the system.
3. Be willing to provide own technical specialists to other States and to the Federal government for TA purposes, especially where program improvements are concerned.
4. Participate in the ETA capacity-building effort by working with ETA to determine areas where SESA staff training is needed, developing training materials, and training SESA employees.

Federal-State Roles in: Problem Resolution

I. Background

Issue: A problem can be defined as a situation in which the UI system is not working properly, or there is a risk it will not be able to work properly. Operational performance may not be adequate, Trust Fund solvency may be weak, or a change in the environment may threaten current operations (e.g., the rise in employee leasing companies) or create a need for new services (e.g., the increase in permanently laid-off workers.) We should try to resolve all problems systematically and constructively, handling them at the lowest appropriate level, starting as early as possible after the problem is identified and with the greatest possible reliance on informal means.

Process:

Both parties should attempt to follow these steps in addressing any problem:

1. Determine how it was identified.
2. Determine what subject area it falls in. Does the Federal or State partner normally have lead responsibility in the areas involved?
3. What are the facts and the history? How did it originate?
4. Use a systematic approach involving:
 - o Clearly defining the problem;
 - o Gathering data about the problem;
 - o Assessing the root cause;
 - o Identifying optional solutions;
 - o Selecting and implementing a solution.
5. Begin resolution at the lowest appropriate level and through the party having the primary responsibility.
6. If the primary party cannot solve it, or the problem involves many States, try a joint approach, e.g., RO-NO, Fed-State, State-State workgroups.
 - o Rely on informal and person-to-person means.
 - o Seek to understand the perspective of the other party.
7. Share responsibility for system deficiencies
8. Move quickly to resolve problems.

II. An Outline of Roles and Responsibilities

a. Federal Role and Responsibilities:

1. Assure RO and NO policy interpretations are consistent.
2. Make sure policy directions, interpretations and measurement definitions to States are clear and timely.
3. When a State problem is identified through reports data, a performance measurement system, etc., cross check with other indicators if available and contact State staff to obtain confirming data.
4. Start at the lowest appropriate level to address problems and conflicts.
5. Respond quickly to requests for information, interpretation, or review of proposals.
6. When a problem cannot be solved by State staff alone, or is a multi-State problem, be ready to provide technical assistance either by Federal staff or contract staff, or by coordinating the efforts of other SESAs.
7. Be willing to take joint ownership of problems where warranted, devoting resources to help analyze and fund solutions.
8. Be willing to reexamine policies in the light of changed circumstances.
9. Be willing to take explicit account of State differences in assessing problem causes and solutions.
10. Be responsive to State requests for help.

b. State Agency Role and Responsibilities:

1. Ensure measurement systems are current and produce valid assessment data.
2. Monitor operations regularly so problems can be detected as soon as possible.
3. Seek clarifications to legal and policy interpretations where necessary.
4. Work at the lowest possible level to address problems.
5. Seek Federal help sooner rather than later if it appears to be needed.
6. Be willing to provide TA to other SESAs when necessary.
7. Be responsive to Federal urgings to undertake corrective actions.
8. Be willing to take full or joint ownership of problems where warranted.

DETAILED EXPLANATION OF THE TIER I MEASURES

Explanation:

Tier I measures are gathered using standardized Federal definitions, and eventually national Federal criteria or cutoffs differentiating satisfactory from unsatisfactory performance, will be set for each. These criteria will represent minimum acceptable levels of performance--floor levels below which it is presumed that the State's customers would not be getting acceptable service. As such, they will be enforceable by legal sanctions as a last resort.

Justification:

This constellation of measures was selected to provide, as a whole, coverage of the major areas of UI performance, covering major legal requirements and key areas of customer service. They were selected to provide balance along two major dimensions: between benefit payment and tax collection operations; and between timeliness and accuracy or quality. Individual measures had to meet the following criteria: (a) statistical validity; (b) inter-State comparability [the measure represents comparable performance in every State]; (c) lack of subjectivity in the measure, or manageable subjectivity, so that performance can be measured consistently within a State over time and, more importantly, between States. These are the main measurement conditions needed to allow the setting of valid, and legally enforceable, national performance criteria.

Definitions and Conditions of Individual Measures:

1. First Payment Timelapse

a. **How Defined:** *The number of days that have elapsed from the week ending date of the first (earliest) compensated week in the benefit year to the date the payment is mailed or offset is applied on a claim. States determine mail date and provide DOL with the procedure used to derive it. If one check contains payment for two or more benefit weeks, then first payment timelapse is based on the first or earliest week ending date among the weeks compensated.*

b. **Data Source:** Universe of first payments.

2. Adjudications Timelapse.

a. **How Defined:** *The number of days elapsed from the date an issue is detected on a claim to the date of the adjudication of all issues which have the potential to adversely affect claimant benefit rights. It is measured from the date the Agency first detects the issue to the date the adjudication notice is mailed, or if no notice is required then the date a payment is authorized, waiting credit is given, or an offset is applied.*

b. **Data Source:** Universe of adjudications.

c. **Conditions/comments:** For analytical purposes States will also measure the time required to detect a nonmon issue, computed as the length of time from the ending date of the week affected to the date an issue is detected.

3. Lower Authority Appeals Timelapse.

a. **How Defined:** *The length of time from the date the request for hearing is filed to the date the decision is issued or the case is otherwise disposed of.*

b. **Data Source:** Universe of lower authority appeals decisions.

c. **Conditions/comments:** Includes remanded and reopened cases. Cases remanded from Higher Authority are measured from date case is remanded.

4. Higher Authority Appeals Timelapse.

a. **How Defined:** *The number of days from the date the request for a Higher Authority appeal is filed to the date the decision is issued.*

b. **Data Source:** Universe of higher authority appeals decisions.

c. **Conditions/comments:** Includes remanded and reopened cases. Clock keeps running for cases remanded to Lower Authority for *additional evidence* and then returned, but stops for cases returned to Lower Authority for *decision*.

5. Timeliness of Deposit to the Clearing Account.

a. **How Defined:** *The length of time from the Agency's receipt of contributions to their deposit in the clearing account (CA). It is measured by an estimate of the percent of dollars received deposited within various day intervals.*

b. **Data Source:** A sample of remittances drawn during a 6-day period around the due date in the second quarter of the calendar year.

c. **Conditions/comments:** The Department will explore whether a valid single measure combining timeliness of deposit to the CA and of transfer from the CA to the trust fund can be developed. If possible, this would permit implementation of the committee's preferred measure, "timeliness of deposit of remittances into the Trust Fund".

6. Timeliness of Transfer from the Clearing Account.

a. **How Defined:** *The length of time from the Agency's deposit of funds in the clearing account (CA) to their transfer into the Trust Fund. It is measured by calculating the annual average number of days funds were on deposit in the CA before being transferred to the Trust Fund.*

b. **Data Source:** The universe of all transfers reported on the ETA 8414 (a banking report).

c. **Conditions/comments:** The Department will explore whether a valid single measure combining timeliness of deposit to the CA and of transfer from the CA to the trust fund can be developed. If possible, this would permit implementation of the committee's preferred measure, "timeliness of deposit of remittances into the Trust Fund".

7. Nonmonetary Adjudication Quality.

a. **How Defined:** *Assessment of the quality of adjudication, based on the application of a standard review instrument to a sample of adjudications. The review instrument contains criteria measuring various dimensions of quality; each one is scored Pass/Fail/Not applicable. Failure of one element causes the entire case to fail.*

b. **Data Source:** Drawn from the universe of all adjudications, which includes the universes of nonmons affecting both initial and continued eligibility including BPC crossmatch and all other BPC adjudications.

c. **Conditions/comments:** The following approach will be used to minimize non sampling error:

! The review staff will be tripartite (own State, other State, Federal Regional Office).

! Two evaluators initially review each case; the third reviews if they disagree.

! The regions are responsible for ensuring that reviewers are well trained.

8. Lower Authority (Benefits) Appeals Quality.

a. **How Defined:** *Assessment of the quality of lower authority appeals hearings based on the application of a standard review instrument to a sample of lower authority appeals. The review instrument contains 33 elements measuring various dimensions of quality or due process; each one is given a numeric score. Of the 33, eight assess due process.*

b. **Data Source:** Drawn from the universe of all lower authority appeals, which includes appeals filed for Federal as well as State UI programs.

c. **Conditions/comments:** (1) As with adjudications quality, appeals quality has both "due process" and "other quality" dimensions. This measure will be based only on the overall numeric score. States will retain due process information for management purposes. (2) A system based on the adjudications quality review system will be used to promote consistency in appeals quality reviews.

9. Timeliness of Status Determinations

a. **Definition:** *The length of time from the last day of the quarter in which the business establishes liability to the date the status determination is made.*

b. **Data Source:** A single universe, combining both new and successor determinations as reported on the ETA 581 report.

c. **Conditions/comments:** RQC computed measures now use two timeliness intervals (less than 90, less than 180 days). The criterion for this measure will be based on only one.

10. Quality of Status Determinations

a. **Definition:** *Assessment of the quality of status determinations including the assignment of correct rates and posting of information into the system by reviewing a sample.*

b. **Data Source:** Based on the existing Revenue Quality Control methodology which comprises a Systems Review and a 60-case acceptance sample. Three types of determinations are reported separately: new, successor, and termination. The review instruments contain from 6 to 13 elements, of which about half are "evaluative" (i.e., their failure causes the case to fail). If the Systems Review--the review of status processes for existence of necessary internal controls--is satisfactory, it is done only every third year; acceptance samples are drawn and evaluated every year.

c. **Conditions/comments:** States will report findings of the Systems Reviews and which acceptance samples pass or fail. The details of how this measure will actually be used as a Tier I measure are still being developed. Issues include whether all three types of determinations will be used or only new Status Determinations; the procedures to be followed in deciding that a corrective action plan will be required; and how sanctions might be triggered.

DETAILED EXPLANATION OF THE TIER II MEASURES

Explanation:

Like Tier I measures, States collect Tier II measures using standardized Federal definitions. However, no national Federal criteria or cutoffs differentiating satisfactory from unsatisfactory performance will be set for them. Instead, States will set performance targets for them as part of their annual planning process. If a State fails to achieve its target, it is responsible for deciding upon a course of action, if any, after consultation with its Regional Office.

Justification:

As was done with Tier I measures, this constellation of measures was selected to provide, as a whole, coverage of the major areas of UI performance, covering major legal requirements and key areas of customer service. They were selected to provide balance along two major dimensions: between benefit payment and tax collection operations; and between timeliness and accuracy or quality. However, they were relegated to Tier II status either because the Performance Enhancement Committee did not believe they had the same degree of importance as the nine Tier I measures, or because they could not meet the exacting measurement criteria required of Tier I measures.

Definitions of Individual Measures:

<u>Measure</u>	<u>Definition</u>
<i>Timeliness/Timelapse of:</i>	
<i>Workshare First Payments</i>	The number of days from the week ending date of the first (earliest) compensated week in the benefit year to the date the payment is mailed or offset applied on a claim identified as Workshare. If payment is made in one check for more than one week, then time lapse for the first (earliest) week paid must be computed.
<i>Continued Weeks Payments</i>	The number of days from the week ending date of the paid continued week (whether total or partial) to the date the check is mailed or offset is applied. If payment is made in one check for more than one week, then time lapse for each week paid must be computed.
<i>Nonmon Issue Detection*</i>	The number of days from the weekending date of the first affected week to the date the agency detects an issue.
<i>Workshare Cont'd Weeks P'ment</i>	The number of days from the week ending date of the continued week

claimed (whether total or partial) to the date the check is mailed or offset applied, for claims identified as Workshare. If payment is made in one check for more than one week, then time lapse for each week paid must be computed.

Adjudication Implementation Implementation time lapse is a measure of the length of time from the date of the determination to the date the outcome is applied to the claim record.

Implementation of Appeals

A. Decisions Reversing/modifying from deny to pay. The number of days from the date a decision which reverses or modifies a disqualifying adjudication is issued to the date the payment is released. The time lapse is not complete until all weeks affected by the LAA decision are paid. If the LAA reversal does not result in payment because another disqualification remains, time lapse will not be measured because benefits are not due to the claimant.

B. Decisions Reversing/Modifying from pay to Deny. The length of time from the date a decision which reverses or modifies a paying adjudication is issued to the date the automated claimant file is updated to record the stop payment. The time lapse will not be affected by a decision to waive or collect any overpayment resulting from the decision.

*Employer Tax Appeals** The length of time from the date an employer requests a hearing on a tax issue to the date the decision is issued.

Combined Wage Claims (CWC)

Wage Transfers

The length of time from the date the transfer request is received to the date that the data which complete the transfer are sent to the paying State.

CWC Billings

The length of time from the end of the calendar quarter to the date billings (reimbursement requests) were mailed to the transferring States.

CWC Reimbursements

The length of time from the date the transferring State receives the reimbursement request to the date that payment is sent to the paying State.

Report Filing

The percent of employers filing reports by the date the State uses to determine when penalty/interest applies.

Securing Delinquent Reports The percent of quarterly reports secured by the last day of the following quarter.

Resolving Delinquent Reports

The percent of quarterly reports secured plus delinquencies resolved by the last day of the second reporting period.

Contributions Payments Contributions received timely as a percentage of taxes due.

Quality or Accuracy of:

LA Appeals Due Process The assessment of the quality of due process provided in Lower Authority Appeals hearings from a quarterly sample. The review instrument contains eight fundamental due process elements, all of which must be rated "pass" if the case is to pass due process.

Higher Authority Appeals To be developed in conjunction with stakeholders.

Employer Tax Appeals To be developed in conjunction with stakeholders.

Posting Contributions An assessment of the accuracy of the posting of contributions to employers' accounts from an acceptance sample+ drawn from cases used to determine deposit promptness.

Delinquent Reports Resolution

Assessment of the quality of the process for resolving delinquent reports by reviewing an acceptance sample+.

Collection Actions Assessment of the collection process by reviewing an acceptance sample+ drawn from collection cases at least 30 days old and for at least \$100 of UI tax liability.

Field Audits Assessment of adherence to Employment Security Manual audit requirements by reviewing an acceptance sample+.

Employer Accounts Posting Assessment of the accuracy of posting contributions to employers' accounts by reviewing an acceptance sample+ of employers active on a particular day.

Employer Billings Assessment of the accuracy of billings by reviewing an acceptance sample+ drawn from debits newly established in a selected calendar quarter.

Employer Credits/Refunds Assessment of the accuracy of credits/refunds by reviewing an acceptance sample+ drawn from C/R newly established in a selected calendar quarter.

Benefit Charging Assessment of the accuracy of the charging function by reviewing the accuracy of charges made to an acceptance

	sample+ of employers with benefits charged to their accounts in a selected quarter.
<i>Experience Rating</i>	Assessment of the accuracy of the experience rating function by reviewing the tax rates of an acceptance sample+ of experience- rated employer accounts.
<i>Benefit Payments</i>	An estimate of the correctness of UI, UCFE, UCX, CWC benefits made by reviewing a systematic random sample of payments each week; causes and responsibilities of errors and much more are coded.
<i>Other Measures:</i>	
<i>LA Appeals, Case Aging</i>	The age of lower authority appeals cases not yet decided, measured from date appeal was filed to date of case aging report.
<i>HA Appeals, Case Aging</i>	The age of higher authority appeals cases not yet decided, measured from date appeal was filed to date of case aging report.
<i>Turnover of Receivables</i>	Ratio of the 4-quarter averages of receivables liquidated plus written off to contributions due.
<i>Writeoff of Receivables</i>	Assessment of the management of uncollectible receivables by calculating the percentage of taxes due that is declared uncollectible.
<i>Receivables to Taxes Due</i>	Assessment of the management of collectibles from the ratio of accounts receivable at the end of the period to annual tax due.
<i>Audit Penetration, Employers</i>	The percent of contributory employers audited for the calendar year.
<i>Audit Penetration, Wages</i>	The total wages paid by employers audited as a percent of wages paid by all contributory employers during the calendar year.
<i>Audit Targeting</i>	The percent change in total wages resulting from audit in a given calendar year.
<i>Customer Satisfaction/ Customer Service*</i>	Measure/measures yet to be developed in conjunction with ETA-wide effort.

* New Measure, under development.

+ Part of the program review methodology developed through the Revenue Quality Control program. All acceptance samples are size 60. Failure of one evaluative question on the assessment instrument causes a case to fail; if 3 or more cases out of 60 fail, accuracy or quality of the process cannot be confirmed.